

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Wendell D. O'Neal,

Civil No. 05-1865 (RHK/JSM)

Plaintiff,

v.

ORDER

Unknown 911 Dispatcher, P.O. Y. Vang,
St. Paul Police Dept., and City of St. Paul,

Defendants.

This matter is before the Court on Plaintiff's pending "Ex Parte Motion To Dismiss." (Docket No. 6.) Plaintiff's motion papers indicate that he recently commenced a new civil action that will supercede the present action, and that this case should therefore be summarily dismissed. Because no Defendant has appeared in this action, Plaintiff is entitled to voluntarily dismiss this action pursuant to Fed. R. Civ. P. 41(a). Plaintiff's motion will therefore be granted, and this action will be dismissed without prejudice.

Based upon the foregoing, and all of the files, records and proceedings herein,

IT IS HEREBY ORDERED that:

1. Plaintiff's motion to voluntarily dismiss this action, (Docket No. 6), is GRANTED; and
2. This action shall be dismissed without prejudice.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: 8/31, 2005

s/Richard H. Kyle
RICHARD H. KYLE
United States District Court Judge